

UNITED STATES DISTRICT COURT  
TERRITORY OF GUAM

**02-00032**

TONY H. ASHTIANI,

Plaintiff,

v.

CONTINENTAL MICRONESIA, INC.  
dba CONTINENTAL MICRONESIA,  
AND CONTINENTAL AIRLINES,  
INC.,

Defendants.

CIVIL ACTION NO.

**COMPLAINT UNDER TITLE VII  
OF THE CIVIL RIGHTS ACT OF 1964;  
DEMAND FOR JURY TRIAL**

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the Court by 42 U.S.C. §2000e-5(g). Equitable and other relief are also sought pursuant to 42 U.S.C. §2000-5(g).

2. Plaintiff, Tony H. Ashtiani, is a citizen of the United States and resides at 191 A Chalan Cabesa, Yigo, Guam 96931.

3. Defendants, Continental Micronesia, Inc. dba Continental Micronesia and Continental Airlines, Inc., upon information and belief are corporations licensed to conduct and do business in the territory of Guam.

**ORIGINAL**

4. Prior to July 3, 2001, Plaintiff, TONY H. ASTIANI was employed by Continental Micronesia and Continental Airlines, Inc., as a Certified Aircraft Mechanic since January 14, 1985. The place of employment was within the territory of Guam.

5. On July 3, 2001, Defendants terminated Plaintiff from their employment.

6. Plaintiff filed charges against the Defendants with the Equal Employment Opportunity Commission ("EEOC") charging Defendants with the acts of discrimination indicated in paragraphs 9 and 10 of this complaint on or about January 9, 2002.

7. The EEOC issued a Dismissal And Notice Of Rights on Plaintiff's EEOC complaint on August 19, 2002 which was received by Plaintiff several days later, a copy of which notice is attached to this complaint as Exhibit A.

8. Because of Plaintiff's ethnic background (Iranian), Defendants terminated Plaintiff from employment. Such acts constituted a personnel action made on the basis of racial discrimination.

9. The circumstances under which the Defendants discriminated against Plaintiff are described in the "Charge of Discrimination", which is attached hereto and made a part hereof as Exhibit B. Plaintiff was wrongfully terminated by Continental Micronesia on July 3, 2001, on information, due to retaliation, national origin, and religion.

Seven previous employees terminated by Continental Micronesia, Inc. were all minorities as well from the period of December, 1999 through December, 2001. Further, after the September 11, while Plaintiff's case was pending, Plaintiff's Director made a racial remark, verified by a witness.

Plaintiff is seeking relief of wrongful termination and reinstatement, with no conditions, emotional distress, intentional emotional distress, mental anguish, compensatory and punitive damages from Defendants.

10. The acts set forth in paragraph 9 of this complaint are continuing as Plaintiff has been discharged.

WHEREFORE, Plaintiff prays that the Court grant the following relief to the Plaintiff.

a. Defendants be directed to reinstate Plaintiff to his former employment with back wages;

b. Remove any and all personnel actions, and expunge all such acts from Plaintiff employment records;

c. Award Plaintiff damages for loss of income and award Plaintiff punitive damages;

d. Award Plaintiff reasonable attorney's fees and;

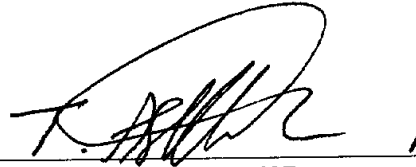
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e. Grant such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

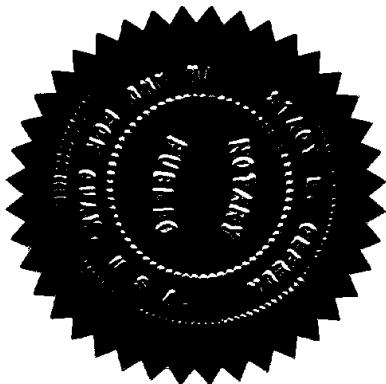
Dated this 14<sup>TH</sup> day of November, 2002.

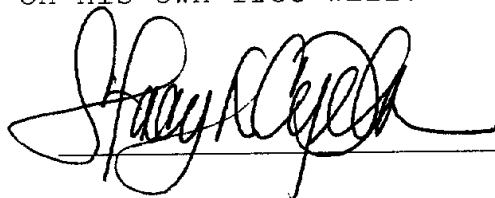
  
TONY H. ASHTIANI, pro se

**VERIFICATION**

Hagatna, Guam, ) ss:  
)

On this 14<sup>TH</sup> day of November, 2002, TONY H. ASTIANI personally appeared before me a notary public and hereby state that he has read the foregoing COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964; DEMAND FOR JURY TRIAL and acknowledged that he has voluntarily signed the above on his own free will.



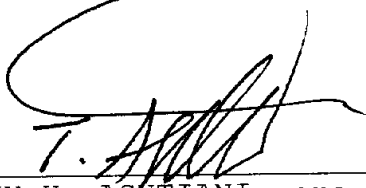
  
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STACY L. CEPEDA  
NOTARY PUBLIC  
In and for Guam, U.S.A.  
My Commission Expires: Nov 5, 2005  
137 Murray Boulevard, Suite 201  
Hagatna, Guam 96910

DEMAND FOR JURY TRIAL

Plaintiff asserts his right under the Seventh Amendment to the U.S. Constitution and demand a trial by jury on all issues, in accordance with Fed. R. Civ. P. Rule 8.

Dated this 14<sup>TH</sup> day of November, 2002.

  
\_\_\_\_\_  
TONY H. ASHTIANI, pro se

## DISMISSAL AND NOTICE OF RIGHTS

To: **Tony Ashtiani**  
**P.O. Box 12723**  
**Tamuning, Guam 96931**

From: **US Equal Employment Opportunity Commission**  
**300 Ala Moana Blvd. Rm 7-127**  
**P.O. Box 50082**  
**Honolulu, Hawaii 96850**

☐ On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR § 1601.7(a))**

Charge No.	EEOC Representative	Telephone No.
378-A2-00115	Raymond J. Griffin Jr., Investigator	808-541-3721

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ We cannot investigate your charge because it was not filed within the time limit required by law.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state) \_\_\_\_\_

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

  
 Timothy A. Riera, Director

8/19/02  
 (Date Mailed)

Enclosure(s)

cc: Continental Airlines, Inc.  
 Legal Department  
 ATTN: Louis Obdyke  
 P.O. Box 4607  
 Mail Code HQSLG  
 Houston, Texas 77210

# CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY  
☐ FEPA  
☒ EEOC

CHARGE NUMBER

Hawaii Civil Rights Commission and EEOC  
State or Local Agency, if any

NAME (Indicate Mr., Ms., Mrs.) <b>Mr. Tony H. Ashtiani</b>		HOME TELEPHONE (Include Area Code) <b>(671) 653-5575</b>	
STREET ADDRESS <b>P.O. Box 12723, Tamuning, GU 96931</b>		CITY, STATE AND ZIP CODE <b>GU 96931</b>	
DATE OF BIRTH <b>10/06/1963</b>			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME <b>Continental Micronesia, Inc.</b>		NUMBER OF EMPLOYEES, MEMBERS <b>Cat D (501 +)</b>	
STREET ADDRESS <b>P.O. Box 8778, Tamuning, GU 96931</b>		TELEPHONE (Include Area Code) <b>(671) 642-8877</b>	
CITY, STATE AND ZIP CODE <b>GU 96931</b>		COUNTY <b>010</b>	
TELEPHONE NUMBER (Include Area Code)			
CITY, STATE AND ZIP CODE			
COUNTY			

CAUSE OF DISCRIMINATION BASED ON (check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		<b>07/12/2001 08/03/2001</b>	
		<input checked="" type="checkbox"/> CONTINUING ACTION	

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

1 I have worked for the Continental Airlines and Continental Micronesia  
2 Inc. as a Certified Aircraft Mechanic since January 14, 1985.

3 On June 23, 2001, I called to inform my employer that I would not in to  
4 work because of my son's illness. I talked with Lead Mechanic, Joe  
5 P. on two occasions prior to my scheduled shift. Later that  
6 afternoon, I talked with Supervisor Glenn Mendoza twice. *Called office twice*  
7 *spoke to Mendoza*

8 The same day Mendoza composed an email and sent to an email to Manager  
9 Bill Herrera stating that I was a no show/no call for work. *cc. ZAR*  
10 However, Mendoza acknowledged that I talked with Joe P. about some  
11 meeting I was to attend with Herrera the following Monday. *ATA*  
12 *Supv. also*

13 In the same email, Mendoza informed Herrera that another mechanic, Ryan G  
14 (Guamian male) called in sick (the day before) and was going to the  
15 doctor. Mendoza informed Ryan G. to secure a doctor's note and offered  
him FMLA. However, I was denied these same terms and conditions of  
employment.

16 On July 12, 2001, I received a certified letter of termination from my  
17 employer. My employer stated reason for the action was because I was in  
18 violation of the company's attendance policy of not showing up to work  
19 for two consecutive days without giving notice.

\*\* Text is Continued on Attached Sheet(s) \*\*

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the Agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
SIGNATURE OF COMPLAINANT  <b>X JAN 9/01</b> Charging Party (Signature)		SIGNATURE OF COMPLAINANT  <b>X F. Ashtiani</b> Charging Party (Signature)	
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)			



## Equal Employment Opportunity Commission

300 Ala Moana Blvd.  
Room 7-127, Box 50082  
Honolulu, Hawaii 96850

Respondent: Continental Micronesia, Inc.  
Charge No.:

January 8, 2002

Mr. Tony H Ashtiani  
P.O. Box 12723  
Tamuning, GU 96931

Dear Mr. Ashtiani:

This is to acknowledge your charge of employment discrimination against the above respondent. The information you provided indicates that your charge is subject to:

- ☒ Title VII of the Civil Rights Act of 1964 (Title VII)
- ☐ The Age Discrimination in Employment Act (ADEA)
- ☐ The Americans with Disabilities Act (ADA)
- ☐ The Equal Pay Act (EPA)

The paragraph(s) checked below apply to your case:

- ☒ Please sign, date and return the enclosed Charge of Discrimination which was drafted from your correspondence.
- ☐ You need do nothing further at this time. We will contact you when we require further information or assistance. ☐ A copy of your charge or ☐ notice of your charge will be provided to the respondent within 10 days of our receipt of your charge as required by our procedures. Please refer to the above charge number whenever you contact us about your charge.
- ☐ We infer from your correspondence that you are hesitant to have your charge disclosed to the respondent. However, your legal rights may not be preserved unless the respondent receives timely notice of your charge. PLEASE CALL US IMMEDIATELY to discuss this matter.
- ☐ To arrange an interview, please call me during office hours (listed below). Please ask for me or, if I am busy, ask to speak to another member of the Intake Staff. If you have to call long distance, please call collect.

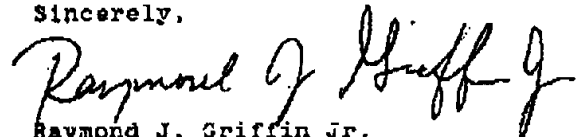
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Mr. Tony H Ashtiani  
Page Two

- [X] The Commission's regulations require that you notify this office of any change in address and keep us informed of any prolonged absence from your current address. Your failure to cooperate in this matter may lead to dismissal of your charge.
- [X] You should be aware that the Commission will provide a copy of your charge to the below listed agency in accordance with our procedures. If your charge is processed by that agency, you may be required to swear to or affirm your signature before a notary public or an official of the agency. Agency: Hawaii Civil Rights Commission
- [X] If your charge is investigated by the above agency, they will investigate and resolve your charge under their statute. Under section 1601.76 of EEOC's regulations, you are entitled to request that EEOC perform a Substantial Weight Review of the agency's final finding. To secure this review, you must request it in writing to this office within 15 days of your receipt of the agency's final finding in your case. Otherwise, we will generally adopt the agency's finding as EEOC's.

Sincerely,

  
Raymond J. Griffin Jr.  
Investigator

Office Hours: Monday - Friday, 8:00 - 4:30  
Telephone : (808) 541-3120